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Forty-seventh session
Agenda item 11

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Letter dated 27 February 1991 from the delegation of The Gambia to the Commission on Human Rights addressed to the Chairman of the Commission

The Gambian delegation draws your attention to the Report of the Commonwealth Governmental Working Group of Experts on Human Rights.

The Heads of Government of the 50 Commonwealth States, noting that Commonwealth States have many shared values and traditions which would lead to co-operation in the area of human rights, requested the Secretary-General of the Commonwealth to convene a governmental working group of experts on human rights. The Working Group was charged with the responsibility of reviewing Commonwealth co-operation in the area of human rights to date and of recommending possible avenues for enhanced co-operation and action in the future, in such areas as education, training and technical assistance upon request of member States.

We would like to distribute the Report of that Working Group under item 11 of the agenda.

(Signed) Jainaba Johm
Delegate of The Gambia

Report of the

Commonwealth Governmental Working Group of Experts on Human Rights

Commonwealth Secretariat
Marlborough House
Pall Mall
London SW1Y 5HX

July 1990

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ANNEX I Memorandum by the Government of Canada - **Strengthening Commonwealth Co-operation in the Area of Human Rights**

ANNEX II Extract from the Kuala Lumpur Communique, October 1989 - **Commonwealth Co-operation in Human Rights**

Marlborough House
Pall Mall
LONDON SW1Y 5HX

1 July 1990

Dear Secretary-General,

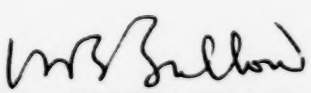
GOVERNMENTAL WORKING GROUP OF EXPERTS ON HUMAN RIGHTS

In accordance with the mandate from the Communique of the Kuala Lumpur Heads of Government Meeting, in 1989, you convened a governmental working group of experts on human rights to review Commonwealth co-operation in the area of human rights and to recommend possible avenues for further co-operation and action. The Working Group consisted of the experts in the attached list.

The Working Group met on the 3-4 April 1990 and was able to complete its task.

I now have the honour, as Chairman of the Working Group, to submit to you the result of our work which is contained in the attached Report. The Group was able to make a number of recommendations with regard to future action by the Commonwealth in the area of human rights. I would hope that these recommendations could be put into effect as soon as possible.

On behalf of my colleagues and myself, I would like to express our great satisfaction in being able to serve the Commonwealth on an issue of fundamental relevance to our community. We would also wish to convey our gratitude to you Mr. Secretary-General, to the Head of the Human Rights Unit, and to the Secretariat for the co-operation and assistance which enabled us to discharge our mandate without any difficulty.



The Hon. Hassan Jallow
Attorney-General and Minister of Justice
The Gambia

Members of the Working Group on Human Rights

Bangladesh

Mr. A.K.H. Morshed
Chairman
Bangladesh Institute of International and
Strategic Studies

Barbados

Mr. Oliver Jackman
Chairman
Inter-American Commission on Human Rights

Britain

Mr. James Watt
Head, Human Rights Unit
Foreign and Commonwealth Office

Canada

Mr. Daniel Livermore
Director
Human Rights and Social Affairs Division
Department of External Affairs

The Gambia

The Hon. Hassan Jallow (Chairman of the Working Group)
Attorney-General and Minister of Justice

New Zealand

Ms Dell Higgie
Head, Human Rights Unit
Ministry of External Relations and Trade

Pakistan

Justice Dorab Patel

Zimbabwe

Justice Simbarashe Muchechetere
High Court Judge (Bulawayo)

I. Background to Human Rights Promotion in the Commonwealth

1. Human rights issues have long been on the Commonwealth agenda. Commonwealth Heads of Government themselves have attached particular importance to the observance of human rights. They have affirmed that commitment in various Commonwealth Declarations notably those of Singapore (1971), Lusaka (1979) and Melbourne (1981).

2. The establishment of specific machinery to deal with human rights issues, however, is of more recent vintage. In 1977 The Gambia proposed the establishment of a Commonwealth Human Rights Commission as a feasible and effective step forward in the Commonwealth's efforts to defend human rights. The Gambian proposal resulted in the creation of the Commonwealth Working Party on Human Rights.

3. The Working Party's proposal to create a Human Rights Unit within the Commonwealth Secretariat was adopted, and it was established in 1985. Since that time, the Human Rights Unit has only had the resources to conduct a modest but impressive programme.

4. In 1989 at Kuala Lumpur, Heads of Government discussed the role of the Commonwealth in the area of human rights in light of the progress of the previous decade and the opportunities for enhanced co-operation in the future. At the conclusion of the meeting, Heads of Government adopted a Communique in which they emphasised the importance of enhanced co-operation in human rights. They also adopted a statement on Commonwealth Functional Co-operation which set out the need for a working group to identify programmes for enhanced co-operation and the means to achieve them. The relevant paragraph reads as follows:

> "Heads of Government, noting that Commonwealth states have many shared values and traditions which would lead to co-operation in the area of human rights, requested the Secretary-General to convene a governmental working group of experts on human rights. The working group would be charged with the responsibility of reviewing Commonwealth co-operation in the area of human rights to date and of recommending possible avenues for enhanced co-operation and action in the future, in such areas as education, training and technical assistance upon request of member states. These recommendations would be made to the Secretary-General and, where appropriate, to the next Commonwealth Heads of Government Meeting."

5. The Singapore, Lusaka and Melbourne Declarations, as well as the work of the Commonwealth in combating **apartheid**, are ample evidence of the consensus which exists among Commonwealth states in favour of the principles enshrined in many United Nations declarations, conventions and covenants.

6. The task now before the international community as we near the 21st century is to ensure that these principles are put into practice.

7. The Group considers that the strengths of the Commonwealth in the promotion of human rights lie in its shared tradition of common law; its shared acceptance of human values; its shared language; and its invaluable network of professional and personal contacts through which effective programmes of technical assistance can be carried out. The Group noted in this respect the ability of the Commonwealth to perform certain tasks more cost-effectively than the United Nations or other bodies. The Group noted that the Commonwealth already carried out some successful human rights activities on a modest scale. But it considered too that the Commonwealth was widely seen as insufficiently committed as an organisation to the promotion of respect for human rights.

8. The growth of populations, the depletion of resources, and the consequent effects on the environment, all carry implications for the enjoyment of economic, social, and cultural rights, and in turn exert pressure on the enjoyment of civil and political rights. These, taken with the prevalence of hunger in the world, and the persistence of discrimination on many grounds including race and sex, are questions which are likely to become acute in the coming decade.

9. The Group believes that the Commonwealth must remain committed to the observance of all human rights, and that these human rights and fundamental freedoms particularly as set out in the two International Covenants, on economic, social and cultural, and civil and political rights, are indivisible and inter-related.

II. Objectives

10. The Group worked in accordance with its mandate given at Kuala Lumpur, to review co-operation to date and draw up recommendations for future action in such areas as education, training and technical assistance. It also took account of the Singapore, Lusaka, and Melbourne Declarations. It established the following objectives for future work by the Commonwealth:

(a) to increase knowledge of international human rights standards and obligations among officials in Commonwealth countries, and among the populations at large;

(b) to encourage and sustain high professional standards in the judiciaries and law enforcement agencies of Commonwealth countries in dealing with human rights matters, and to reinforce the independence of these judicial systems;

(c) to promote the adherence of Commonwealth countries to the main international human rights instruments, and to assist their effective implementation;

(d) to facilitate the promotion of human rights by governments, and exchanges of information on human rights programmes and activities.

III. Operating Principles

11. The Group agreed that the following principles should apply to any Commonwealth measures for the promotion of respect for human rights:

(a) each programme should have realistic and achievable objectives;

(b) the efforts of the Commonwealth should be directed at the encouragement of full respect for human rights in accordance with international standards;

(c) the Commonwealth should build on its specific strengths. It should recognise the value of cooperation with other bodies such as the United Nations or regional organisations, and undertake activities only where it can make a distinct contribution and without duplicating existing efforts;

(d) Commonwealth programmes at the national level should be undertaken at the request of the governments concerned;

(e) Commonwealth human rights objectives, while managed in the Secretariat primarily by the Human Rights Unit, should be reflected more fully in all the work of the Secretariat;

(f) particular emphasis should be placed on public information activities including information about the work of the Commonwealth in promoting respect for human rights.

IV. Future Commonwealth Action

12. After having reviewed the activities undertaken throughout the Commonwealth and in particular by the Commonwealth Secretariat in the area of human rights, the Working Group concluded that there was additional scope for promotional activity by both governments and by the Secretariat.

(a) Education, Training and Technical Assistance

13. Many human rights advocates have observed that respect for human rights is largely a cultural phenomenon, embedded in the institutions and traditions of each society. Education, training and technical assistance can therefore play a key role in ensuring that respect for the rights of the individual becomes a central element in the development of future generations.

14. It is therefore proposed that the Commonwealth, with its recognised expertise and effectiveness in the area of providing technical assistance to member states, should undertake such assistance in the following areas:

(i) Training of selected Government officials at the highest levels in human rights, with the aim of providing a greater awareness of the content of international human rights standards and of their relevance to their national jurisdictions. Trainees would come from:

(a) the judiciary;
(b) the legal profession;
(c) police and military forces;
(d) other appropriate government ministries and institutions.

(ii) Human rights education at all levels albeit with an initial focus at the secondary level, possibly including the creation of model curricula.

(iii) Creation of a bank of human rights educational programmes: the Commonwealth Secretariat could provide a useful service by assembling information on human rights education programmes and making such information available to Commonwealth countries on request.

(iv) Development of educational material for human rights training, on the lines of the existing Manual on Human Rights Training for Public Officials.

(v) Development of specialised training programmes for legal draftsmen to assist in the translation of universal human rights standards into national legal instruments.

(vi) Technical assistance and advice to national and regional organisations, both governmental and non-governmental;

(vii) Joint activity with organisations active in the area of human rights education.

15. It is further proposed that the Secretariat should study the costs and modalities of publishing at regular intervals a journal on Commonwealth human rights case law.

16. It is also proposed that Commonwealth governments be invited to expand existing fellowship programmes to include specific post-graduate training in human rights law.

(b) Commissioned Studies

17. The Working Group recommends to the Secretariat that, in furtherance of its mandate, that the following studies be commissioned on its behalf:

(i) Human Rights Resource Directory - an initial review of the institutions, organisations, programmes, and facilities in the area of human rights in the Commonwealth.

(ii) Study on the feasibility of collecting and disseminating information on International and Commonwealth Human Rights Case Law.

(iii) Examination of human rights education in the Commonwealth and proposals for various human rights educational programmes to be undertaken by the Commonwealth Secretariat.

(iv) Study on the production or collection of human rights material and its subsequent dissemination - what should be produced and disseminated, and to whom?

18. The Group asked that those commissioned studies be circulated to all members for their observation and comments.

(c) Financing

19. Given the difficult fiscal situation of many member states and the consequent impact on the Secretariat, it goes without saying that the framing of new programmes and initiatives will be largely dependent upon the availability of programme resources. While human rights demands will necessarily have to be balanced against demands from other quarters at a time of scarcity, it should be emphasised that human rights is a relatively recent Commonwealth activity whose programme base should not be allowed to wither because of its comparative youth. Moreover, with goodwill, careful planning and clear programming, much can be

accomplished even with a slender resource base.

20. Joint initiatives with United Nations bodies and other intergovernmental and non-governmental organisations would help to further the human rights work of similar organisations and the Commonwealth at minimal incremental cost.

21. Furthermore, the Commonwealth need not be the delivery vehicle for all of the programmes and activities mentioned above. Indeed, a potentially valuable role for the Commonwealth is a "catalytic" role through stimulating action in other fora and by other organisations, while retaining an overview for the purposes of co-ordination and future assistance.

22. Nevertheless, there are a number of activities that must be initiated and conducted by the Secretariat. The Working Group therefore makes the following financial recommendations:

(i) Regular core funding and Secretariat operational budget for the Human Rights Unit and other Secretariat units undertaking human rights activity at a minimum must be kept at current levels and enhanced when possible.

(ii) A standing facility, initially in the range of £30,000 funded by voluntary contributions through the Commonwealth Fund for Technical Co-operation (CFTC), should be created and made available to the Human Rights Unit to be used at its discretion on an annual accountable basis.

(iii) A funding facility through the CFTC should be created to allow voluntary funds from governments and other agencies to be channelled to specific technical assistance projects or training programmes co-ordinated by the Human Rights Unit.

(iv) The Secretariat should be clearly mandated to approach the United Nations and other agencies to act as an implementing body for these organisations for human rights programmes within the Commonwealth.

V. Proposed Framework for a Commonwealth Secretariat Human Rights Programme

23. While it is recognised that the Commonwealth will need to build incrementally and gradually, especially in times of severe financial restraint, the Human Rights Unit should begin to develop a series of programmes with long-term goals and objectives, which can be implemented as resources are made available and as the momentum of co-operation takes hold. It is

recommended that the following programmes could incorporate the objectives for the Commonwealth visualised in Section II and the activities described in Section IV.

(a) A National Institutions Programme

This could include: advice in framing a national plan of action or strategy in the area of human rights; the provision of technical assistance to the judiciary and police and other law enforcement agencies; assistance to professional associations in gathering international expertise; assistance to information and public affairs initiatives; training of public officials; the provision of educational materials to appropriate national institutions.

(b) A Regional Institutions Programme

This programme to offer advice and support in training, technical assistance and educational areas, could be effected in co-operation with the United Nations, the Organisation of African Unity (OAU), the Organisation of American States (OAS), and other regional organisations such as the African Centre for Democracy and Human Rights Studies.

(c) An International Instruments Programme

This programme would not only encourage the ratification and implementation of key international instruments, but would also educate lawyers and the judiciary as to the existence, content, and implications of such instruments.

(d) A Professional Support Programme

The Commonwealth should promote the active development of national, regional and international associations of professionals as part of the process of building the infra-structure through which human rights can be promoted and protected.

(e) A Public Affairs and Information Programme

Given the importance of communications, an active public affairs programme is essential. The range of possible activities in this area will be partially identified by the commissioned study to which reference is made paragraph 17 (iv).

(f) A Partnership Programme

The Commonwealth should co-operate with such institutions as the United Nations, United Nations Educational, Scientific and Cultural Organisation (UNESCO), the International Labour Organisation (ILO), the OAU, the OAS and non-governmental organisations, in order to advise on issues of relevance to Commonwealth states and, over time, to assist in the delivery of programmes in Commonwealth states.

(g) A Commonwealth Human Rights Resource Directory

In addition to having on hand information as to the activities of other international organisations, the Commonwealth may wish to prepare and retain as an ongoing programme a computer-based inventory of experts, programmes, facilities, institutions and organisations in all Commonwealth states. A first stage of this programme will be achieved through the commissioned study as set out in paragraph 17 (i).

(h) A Human Rights and Development Programme

A key issue on which substantial work needs to be done is the relationship between human rights and development (both human, individual development and national development). The Commonwealth could play a unique role by bringing to bear on this issue all of its "roles" and programmes, from experts and organisations to its own assistance programmes. It could also play a leading role on this issue within the United Nations and other organisations where this theme is now discussed with increasing frequency. The Group noted that the Women and Development Programme of the Secretariat already plays an active and effective role in this area.

VI. Programme Advisory Committee

24. The Group believes that it is necessary to establish a programme advisory committee to further the recommendations of this Report. The Group therefore recommends the creation of a Programme Advisory Committee, consisting of between eight and ten members to be nominated by the current Working Group, and subsequently by the Programme Advisory Committee itself, and confirmed by the Secretary-General. They would be authorised to meet as appropriate. The Committee's mandate would be to review Commonwealth activities in the area of human rights and to advise the Secretariat on objectives, programmes, and activities which could be undertaken within the framework of the general budget or through the provision of voluntary funding.

VII. Conclusion

25. The Commonwealth has a unique role to play in promoting the more effective enjoyment of human rights within and among its member states and in the international community at large. A constructive, imaginative programme can be framed which capitalises upon the achievements of the Commonwealth and builds upon the political, legal and societal conditions which its members share.

26. Human Rights must remain a central tenet of Commonwealth co-operation in the 1990s and beyond.

VIII. Summary of Formal Recommendations

1. The Commonwealth must remain committed to the observance of all human rights, and that these human rights and fundamental freedoms particularly as set out in the two International Covenants, on economic, social and cultural, and civil and political rights, are indivisible and inter-related. Human rights must remain a central tenet of Commonwealth co-operation in the 1990s and beyond (see paragraphs 9, 26).

2. The objectives of human rights promotion in the Commonwealth must be to increase knowledge of international human rights standards and obligations; to encourage and sustain high professional standards of judiciaries and law enforcement agencies; to reinforce the independence of judicial agencies; to promote the adherence to and implementation of international human rights instruments; and to generally facilitate the promotion of human rights (see paragraph 10).

3. Commonwealth measures should pursue realistic and achievable objectives to encourage full respect for human rights in accordance with international standards and build upon the specific strengths of the Commonwealth (see paragraph 11).

4. Education, training and technical assistance can play key roles in the promotion of human rights, and there are numerous ways in which future Commonwealth action in this area can be furthered (see paragraphs 14, 15, 16). The Group has outlined a number of financial recommendations that should be put into effect to achieve those measures (see paragraph 19, 20, 21, 22). A series of commissioned studies should be immediately undertaken to further the ability of the Group and the Secretariat to address some of those promotional measures (see paragraphs 17).

5. **The Human Rights Unit should begin to develop a series of programmes with long-term goals and objectives, in particular, a national institutions programme; a regional institutions programme; an international instruments programme; a professional support programme; a public affairs and information programme; a Commonwealth human rights resources directory; and a human rights and development programme (see paragraph 23).**

6. **It is essential to establish a programme advisory committee to further the work of the Commonwealth Secretariat on a long term basis (see paragraph 24).**

The Hon. Hassan Jallow
Chairman

Mr. A.K.H. Morshed

Mr. Oliver Jackman

Mr. James Watt

Mr. Daniel Livermore

Ms Dell Higgie

Justice Dorab Patel

Justice Simbarashe Muchechetere

ANNEX I

HGM(89)21

COMMONWEALTH HEADS OF GOVERNMENT MEETING
KUALA LUMPUR 1989

STRENGTHENING COMMONWEALTH CO-OPERATION IN THE AREA OF HUMAN RIGHTS

Memorandum by the Government of Canada

This paper seeks to present to Commonwealth Heads of Government a proposal to establish a governmental experts working group to examine ways of strengthening Commonwealth co-operation in the area of human rights.

2. The promotion of respect for human rights is increasingly viewed as an important subject for discussions between and among states. The Commonwealth may offer a unique forum in this regard due to its shared values and traditions. In the 1971 Singapore Declaration, Commonwealth leaders asserted their belief "in the liberty of the individual, in equal rights for all citizens, regardless of race, colour, creed or political belief". At the 1987 Vancouver Meeting, leaders reiterated their commitment to the observance of human rights and agreed to work for universal ratification of major United Nations human rights instruments.

3. In 1981, a Commonwealth working group made recommendations which resulted in the creation of the Human Rights Unit within the Commonwealth Secretariat.

4. The Commonwealth, with its many legal and other traditions, has a potentially important institution-building role to play in the human rights area. Many Commonwealth countries have legislation, institutions or experiences from which other countries facing similar situations or challenges could benefit.

5. Canada believes this is an appropriate time to build on past achievements in this field. Canada is planning to propose at the Commonwealth Meeting in Kuala Lumpur the formation of a governmental working group of experts on human rights, for the purposes of reviewing Commonwealth co-operation in the area of human rights to date and of recommending possible avenues for enhanced co-operation and action in the future, in such areas as education, training and technical assistance. The group, consisting of 8 to 12 members with relevant professional support, would be temporary and would meet two to three times over the course of the next one or two years, with a view to preparing recommendations to the Secretary-General.

6. Canada views the proposed initiative to be consistent with past Commonwealth action in the area of human rights and with previous practice in the Commonwealth regarding the establishment

of working groups on various subjects. Its financial implications are modest.

7. The group would be charged with the tasks of reviewing proposals from member states in such areas as education, training and technical assistance and framing recommendations to the Secretary-General and, where appropriate, to the next Commonwealth Heads of Government Meeting.

8. The Kuala Lumpur Meeting provides an opportunity to authorise the establishment of the above-mentioned working group of experts. Canada will be seeking to include appropriate phraseology in the Commonwealth Communique and in the text on Commonwealth functional co-operation in order to enable the Secretary-General to convene such an experts group in 1990.

Commonwealth Secretariat
Marlborough House
London SW1

September 1989

ANNEX II

EXTRACT FROM THE KUALA LUMPUR COMMUNIQUE, OCTOBER 1989

Commonwealth Co-operation in Human Rights

20. Heads of Government, noting that Commonwealth states have many shared values and traditions which would lead to co-operation in the area of human rights, requested the Secretary-General to convene a governmental working group of experts on human rights. The working group would be charged with the responsibility of reviewing Commonwealth co-operation in the area of human rights to date and of recommending possible avenues for enhanced co-operation and action in the future, in such areas as education, training and technical assistance upon request of member states. These recommendations would be made to the Secretary-General and, where appropriate, to the next Commonwealth Heads of Government Meeting.